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Policy: Space Law
Policy: Peaceful Uses

TAB 9/

REPORT OF THE UNITED STATES DELEGATION TO THE LEGAL SUB-COMMITTEE TO THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

New York, September 20 - October 1, 1965

Submitted to the Secretary of State

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United States Representative

Prepared by:
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General

Lack of progress at the 1965 session of the Legal Sub-Committee must, I think, be attributed to political considerations extraneous to the subject of outer space -- specifically, to Soviet unwillingness to reach new agreements with the U.S. in light of the conflict in Viet Nam. The agreement on assistance and return, on which preliminary agreement on certain of the draft articles had been reached at the last session, was discussed at length with no further agreement on draft articles. The discussion of liability agreement resulted in agreement on three very general principles with most of the discussion reported as an "exchange of views".

Activities of Other Delegations

The Soviet Bloc appeared to have instructions to prevent final agreement on either draft convention. The Soviet Delegate (Morozov) insisted that the return of astronauts and space vehicles must be conditioned on a judgment that the launching was in accordance with the Assembly's declaration of legal principles, although the duty to rescue astronauts would be unconditional. The Soviet position was supported by other Bloc delegates. The Soviets made no attempt, publicly or privately, to meet the proposals given to them privately by the U.S. in April 1965. On the basis of what Morozov had told the U.S. delegation at the last session in 1964, those proposals should have led to agreement on assistance and return.

The Soviet delegation was not so overtly obstructive in the discussion of the liability agreement, probably owing to the consideration that agreement on that subject was not imminent. However, at the end of the session, when the Chairman was attempting to formulate the areas

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of consensus reached on this subject, the Soviets strongly protested language indicating that any agreement had been reached on any but the most general points of principle.

The Soviets played only a minor role in the discussion of liability, with Ambassador Morozov notably absent during most of the discussion. The Hungarian delegation took the lead for the Bloc.

The delegations of Mexico, Lebanon and Argentina were active in a variety of unsuccessful attempts to produce compromises between the U.S. and the U.S.S.R. The Austrian delegate was also active in this regard, but with a more realistic, sophisticated approach.

The Commonwealth countries again sought to exert a constructive influence -- particularly Australia.

Assistance and Return

The Soviet delegation took an extremely hard line on the question of conditions on return of astronauts and space vehicles. While the duty to rescue astronauts was to be unconditional, the Soviets argued that return must be conditioned upon the launch having been made in accordance with the Delcaration of Legal Principles. Morozov noted that, without such a condition, a state could be required to return "an unexploded bomb on a silver platter". The Soviets were supported in this argument by the Bloc, and also by Argentina and Mexico. Italy, India, Japan and Brazil thought some qualification such as a requirement of "peaceful use" should be incorporated, and Austria expressed the view that such a provision would be difficult to object to if an acceptable disputes clause were written in.

Liability

The discussion of the subject of liability proceeded on a topic by topic basis, rather than article by article. The U.S. delegation and the Hungarian delegation

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both tabled revised drafts. The Chairman (Lachs, of Poland) appeared to hope to reach some areas of consensus from which the committee could proceed at its next session. Accordingly, after each topic had been discussed, he summarized what he viewed as having been agreed to. At the end of the session, he presented a draft report which listed areas of agreement by topic on the liability agreement. When the time came to accept the report, the Soviets objected strongly to language which implied agreement except on the most general points of principle. For the most part, the report stated only that there had been an "exchange of views".

The following are points on which there appeared to be agreement:

1) The Convention should apply to damage caused by space objects on earth, in air space and in outer space.

2) Where only one State was involved in the launching, that State would be liable, and the term "launching" included attempted launching.

3) International organizations engaged in space activities should be liable under the Convention for damages caused by such activities.

At the end of the discussion of the liability agreement, the Commonwealth delegations suggested that we consult together between this and the next session in order to formulate draft articles which could be more widely supported. The representatives of Belgium (Litvine) and Austria (Zemanek) offered to participate. The U.S. delegation expressed its approval of the suggestion, noted that it had given some thought to formulating such compromise provisions, and stated it would be in touch with these delegations. It was anticipated that consultation would focus on the problem of the measure of damages, a priority concept of liability, and criteria in the definition of launching state, among others.

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